UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.69
24 January 1997

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Fourteenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Myanmar

1. The Committee considered the initial report of Myanmar (CRC/C/8/Add.9) at its 357th to 360th meetings (CRC/C/SR.357-360), held on 15 and 16 January 1997 and adopted* the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for the submission of written answers to the list of issues (CRC/C/Q/Mya.1). The Committee notes that the report, although following the thematic structure for reporting set out in the general guidelines, was incomplete in its appreciation of the situation of children in the country since it did not incorporate an assessment of factors and difficulties impeding the enjoyment of the rights of the child.

B. Positive factors

3. The Committee welcomes the fact that the State party has withdrawn its reservations on articles 15 and 37 of the Convention.

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* At the 371st meeting, held on 24 January 1997.

4. The Committee is encouraged by the fact that the State party has adopted a National Plan of Action and established a National Committee on the Rights of the Child in 1993.

5. The Committee welcomes the enactment of a national law on the protection of children in 1993.

C. Factors and difficulties impeding the implementation of the Convention

6. The Committee notes that the State party has been deeply affected by years of internal conflict that has gravely disturbed some regions of the country. Violence and instability have had a considerable negative impact on the situation of children in Myanmar: many of them have been subjected to various forms of violations of their rights and have been forced to flee areas affected by violence.

7. The Committee further notes that several years of unfavourable economic conditions in the State party have adversely affected the situation of the most vulnerable groups in society.

D. Principal subjects of concern

8. The Committee is concerned about the lack of conformity between the existing national legal framework and the principles and provisions of the Convention, namely the Citizenship Act, the Village and Towns Acts and the Whipping Act. The Committee is also concerned by the fact that the laws relating to freedom of expression and association and some sections of the Law on Child Labour raise doubts as to their conformity with the provisions of the Convention. It is also of the opinion that the law concerning juvenile justice is not guided by the Convention and other relevant international instruments. The age of criminal responsibility, at present seven years of age, is too low; torture is not clearly prohibited by existing legislation and no complaint procedure for children exists. The Committee is also worried that the law prohibiting discrimination fails fully to conform to article 2 of the Convention by not explicitly protecting children from discrimination "on the basis of ... political or other opinion ..., ethnic or social origin ..., disability" of the child or his/her parents. Finally, the Committee is concerned that the human rights of children are not yet integrated in a fundamental body of law.

9. The Committee is concerned that the Convention on the Rights of the Child and the National Plan of Action have not yet been translated into concrete programmes, sectoral policies and allocation of necessary resources to ensure the implementation of the rights recognized in the Convention throughout the country. Lack of evaluation and monitoring systems are also a matter of concern.

10. The Committee, while recognizing the efforts undertaken by the State party in the collection of data, is concerned that the system of data collection does not adequately disaggregate information so as to reflect the situation of all children, particularly those belonging to the most disadvantaged groups, including children belonging to minority groups,

children living in remote areas, disabled children, children living and/or working in the street, children placed in institutions, including institutions of a penal nature, ill-treated and abused children or children from economically disadvantaged groups. Such disaggregated data would contribute to the design of policies and programmes for the effective and full implementation of the provisions of the Convention.

11. The Committee is also concerned at the lack of an integrated strategy on children as well as of a fully effective monitoring mechanism for all areas covered by the Convention and in relation to all groups of children in urban and rural areas, especially those affected by the consequences of the economic problems and by the internal conflict.

12. As regards the implementation of article 4 of the Convention, the Committee notes with concern the inadequacy of measures taken to ensure the implementation of children's economic, social and cultural rights to the maximum extent of available resources. The Committee expresses particular concern at the insufficient budget allocation for social expenditures, in particular in favour of children belonging to the most disadvantaged groups of the population.

13. The Committee is also concerned that the general principles of the Convention, as laid down in its articles 2 (non-discrimination), 3 (best interests of the child), 6 (right to life, survival and development) and 12 (respect for the views of the child), are not being applied and duly integrated into the implementation of all articles of the Convention. The Committee is concerned that these principles are not adequately reflected in legislation and therefore are not properly integrated in all decisions and actions concerning children, including on the administrative and judicial levels. Concern is also expressed at the status and situation of children belonging to ethnic and religious minority groups, the girl child and children living in rural and remote areas. The insufficiency of measures taken by the authorities to prevent and combat discrimination against those groups of children is also a matter of concern.

14. With regard to the implementation of articles 2 and 3 of the Convention, the Committee is seriously concerned by the fact that the national identity card explicitly mentions the religion and the ethnic origin of each citizen, including children. It is also seriously concerned by the fact that the Citizenship Act establishes three different categories of citizenship and therefore some categories of children and their parents might be stigmatized and/or denied certain rights.

15. The Committee is concerned by the insufficient measures taken by the authorities to raise awareness and to provide education on the Convention to adults and children alike. The fact that the Convention is not translated into all national languages and is therefore not accessible to all children living in the territory of the State party is also a matter of concern, as is the lack of knowledge on the Convention among professional groups working for and with children, including judges, lawyers, law enforcement and army personnel, health professionals, teachers, social workers, and personnel working in child care institutions.

16. The Committee is concerned that the State party has not taken all legal and other appropriate measures to promote and implement the rights contained in articles 13, 14 and 15. Of particular concern is the fact that children considered poor are channelled towards monastic Buddhist schools and are offered no alternative educational opportunity. This might challenge the right to freedom of religion for non-Buddhist children who are enrolled in those schools. Deep concern is also expressed by the Committee with regard to the right of children to freedom of speech, association and peaceful assembly. Moreover, the Committee is seriously concerned by the recent closure of some high schools.

17. The Committee is concerned by the existing legal framework and procedures regulating adoption which are not in full conformity with the principles and provisions of the Convention, especially its articles 3 and 21.

18. The Committee expresses its concern about the high rates of infant mortality and malnutrition, as well as the low level of health services, which are partly due to poverty, deep disparities between urban and rural communities and the impact of the internal conflict. The Committee is also worried about the insufficient measures to offer appropriate and accessible social, rehabilitation and educational services to disabled children.

19. With regard to the implementation of articles 28, 29 and 30 of the Convention, the Committee is concerned by the high drop-out and repetition rates. It is also concerned by the lack of resources in the field of vocational training. Finally, the Committee is concerned by the insufficient measures taken by the State party to provide education in minority languages.

20. The Committee is seriously concerned by the impact of years of internal conflict which has generated important instability in several regions of the country and resulted in situations where families have been forcibly relocated or displaced, or encouraged to cross borders to seek for protection as refugees. The rights of most children involved in those population movements have not been properly addressed and safeguarded.

21. Reports from various sources concerning cases of abuse and violence perpetrated against children have raised grave concern within the Committee, particularly regarding numerous documented cases of rape of young girls by soldiers and cases of children systematically being forced into labour, including as porters.

22. Of equal grave concern to the Committee are the numerous reported cases of forced and under-age recruitment of child soldiers.

23. The Committee is concerned by the fact that children working in the family environment or in family enterprises are not protected by law. The Committee is also concerned about the abuse and exploitation of adopted children, especially in the area of child labour, and at the absence of legal safeguards to protect them.

24. Furthermore, the Committee expresses its regret that insufficient measures are being taken to address the problems of child abuse, including sexual abuse, and the sale and trafficking of children, child prostitution and

child pornography. It is especially concerned by the fact that a significant number of girls, and sometimes boys, are victims of transnational trafficking for the purpose of sexual exploitation in brothels across the border.

25. In light of article 39 of the Convention, the Committee is worried about the insufficient measures taken to provide physical and psychological recovery and social reintegration to children victims of any form of neglect, abuse and/or exploitation, particularly victims of armed conflicts, sexual exploitation and child labour.

26. The situation in relation to the administration of juvenile justice, and in particular its lack of compatibility with articles 37, 39 and 40 of the Convention, as well as other relevant standards such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, is a matter of serious concern to the Committee. Severe conditions of detention, the fact that deprivation of liberty is not used only as a measure of last resort, the lack of access by the child to legal assistance and judicial review, and the absence of a monitoring system are situations that remain of particular concern to the Committee.

27. The Committee is worried by the failure of the State party to cooperate with non-governmental and intergovernmental organizations in the framework of existing international human rights mechanisms. The Committee is concerned about the impact of this situation on the daily life of every child living under the jurisdiction of the State party.

E. Suggestions and recommendations

28. The Committee recommends that the State party undertake a comprehensive review of the national legislation to bring it into conformity with the principles and provisions of the Convention, especially in the areas of non-discrimination, citizenship, freedom of association, corporal punishment, child labour, adoption and the administration of juvenile justice. The Committee also recommends that the Citizenship Act, the Village and Towns Acts and the Whipping Acts be repealed. Laws relating to the right to non-discrimination, freedom of association, child labour and juvenile justice should be amended so to be fully compatible with the provisions and principles of the Convention. The Committee recommends that the State party take all necessary measures to fully reflect the rights recognized by the Convention in a fundamental body of law.

29. The Committee recommends that the State party reinforce at all levels the role of the National Committee for the Rights of the Child in the implementation of the Convention. The State party should take all necessary measures to fully integrate the Convention and the National Plan of Action in all programmes and sectoral policies.

30. The Committee also recommends that the State party gather all necessary data on the situation of children in the various areas covered by the Convention, including on children belonging to the most vulnerable groups.

31. The Committee further recommends that a multidisciplinary monitoring system be established to assess the progress achieved and difficulties encountered in the realization of the rights recognized by the Convention at the central and local levels, and in particular to monitor regularly the effects of economic change and armed conflicts on children. Such a monitoring system should enable the State to shape appropriate and comprehensive policies to protect vulnerable groups and to bridge existing disparities between urban and rural areas. Efforts should be made to ensure implementation of policies and measures for the promotion and protection of the rights of the child, in cooperation with United Nations bodies and the specialized agencies, including the Special Rapporteur on the situation of human rights in Myanmar and other international mechanisms, the High Commissioner/Centre for Human Rights, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO) and the International Labour Organization (ILO).

32. The Committee recommends that the State party, in the light of articles 2, 3 and 4 of the Convention, undertake all appropriate measures to the maximum extent of its available resources to ensure that sufficient budgetary allocation is provided to social services for children and that particular attention is paid to the protection of children belonging to vulnerable and marginalized groups. In this regard, the Committee suggests that the "child-impact" of decisions taken by the authorities be assessed on an ongoing basis.

33. With regard to the full implementation of the principles laid down by articles 2, 3, 6 and 12 in the Convention, the Committee suggests that the State party fully integrate them in all its policies, laws, actions and programmes affecting children at all levels, including on the administrative and judicial levels, especially with regard to children belonging to ethnic and religious minority groups, the girl child, disabled children and children living in rural and remote areas.

34. In the field of the right to citizenship, the Committee is of the view that the State party should, in the light of articles 2 (non-discrimination) and 3 (best interests of the child), abolish the categorization of citizens, as well as the mention on the national identity card of the religion and the ethnic origin of citizens, including children. In the view of the Committee, all possibility of stigmatization and denial of the rights recognized by the Convention should be avoided.

35. While encouraged by initiatives taken by the authorities to raise awareness on the Convention, the Committee recommends that the State party launch a systematic information campaign, for both children and adults, on the Convention on the Rights of the Child. Consideration should be given to the incorporation of the Convention in the school curricula and appropriate measures should be taken to facilitate access by children to information produced about their rights. The Committee suggests that the State party develop a comprehensive training programme, especially focusing on child abuse, for professional groups working for and/or with children, including judges, lawyers, law enforcement and army personnel, health professionals, teachers, social workers, and personnel working in child care institutions.

In this regard, the Committee suggests that the State party envisage cooperation with United Nations bodies, including UNICEF, the specialized agencies and national and/or international non-governmental organizations.

36. The Committee recommends that the national law and practice with regard to adoption be made to conform fully with the Convention, including the principle of the best interests of the child (art. 3). The Committee also suggest that the State party envisage ratifying the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

37. The Committee recommends that the State party take all appropriate measures, including legal means, to fully implement articles 13, 14 and 15 of the Convention. It suggests that the State party give an alternative education choice to non-Buddhist and poor children and that the State party take all measures to fully guarantee the freedoms of association and speech as well as the right to peaceful assembly.

38. The Committee recommends that the State party take all appropriate measures to provide access to health services throughout the country and to all children, including the ones living in the most remote areas as well as the ones belonging to minority groups. The State party should also take appropriate action to offer better protection and access to social services to physically and mentally disabled children.

39. The Committee further recommends that the State party take all appropriate measures, including by reinforcing existing international cooperation programmes, to reduce the rates of school drop-out and repetition. It also recommends that the State party allocate resources to translate school materials into minority languages in order to encourage schools and teachers in the appropriate regions to provide education in minority languages.

40. While welcoming the recent peace agreements between the Government and a great majority of armed rebel groups in the country, the Committee strongly recommends that State party prevent any occurrence of forced relocation, displacement and other types of involuntary population movements which deeply affect families and the rights of children. The Committee also recommends that the State party reinforce its central tracing agency to favour family reunification.

41. Furthermore, the Committee strongly recommends that all reported cases of abuse, rape and/or violence against children committed by members of the armed forces be rapidly, impartially, thoroughly and systematically investigated. Appropriate judicial sanctions should be applied to perpetrators and wide publicity should be given to such sanctions.

42. The Committee strongly recommends that the army of the State party should absolutely refrain from recruiting under-aged children, in the light of existing international human rights and humanitarian standards. All forced recruitment of children should be abolished as well as their involvement in forced labour.

43. With a view to fully protecting children who work within their family, the Committee recommends that the State party amend its existing legislation appropriately. The Committee also recommends that the authorities take all necessary measures to prevent and combat, by legal or any other appropriate action, the exploitation of adopted children including through labour.

44. The Committee also recommends that the State party take all appropriate measures to prevent and combat child abuse, including sexual abuse, and the sale and trafficking of children, child prostitution and child pornography. The Committee encourages the establishment of bilateral agreements between concerned parties to prevent and combat transnational trafficking and sale of children for sexual exploitation.

45. The Committee recommends that all necessary measures be taken by the State party to fully implement article 39 of the Convention, especially to promote the physical and psychological recovery and social reintegration of children victims of armed conflict, abuse and neglect, any form of violence, including rape, child labour and forced labour, sexual exploitation and trafficking and sale. The Committee would like to suggest that the State party consider seeking international assistance in this area from appropriate United Nations bodies, including UNICEF, the specialized agencies and non-governmental organizations.

46. The Committee recommends that the State party envisage undertaking a comprehensive reform of the system of juvenile justice in the spirit of the Convention, in particular articles 37, 39 and 40, and of other United Nations standards in this field, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to using deprivation of liberty only as a measure of last resort and for the shortest possible period of time; to ensuring humane conditions of detention, taking into account the specific needs of children including separation from adult detainees; to the rights of the child to legal assistance and judicial review; to due process of law; and to the full independence and impartiality of the judiciary. Training programmes on the relevant international standards should be organized for all those professionals involved with the system of juvenile justice. An independent monitoring mechanism, national and/or international, should guarantee the full implementation of those rights. Finally, the Committee would like to suggest that the State party consider seeking international assistance in the area of the administration of juvenile justice from the High Commissioner/Centre for Human Rights and the Crime Prevention and Criminal Justice Division of the Secretariat.

47. The Committee encourages dialogue and international cooperation, especially in the field of human rights, including those of children, between the State party and the international community. The Committee recommends that, in the spirit of international cooperation in the area of human rights, including children's rights, the State party implement all the recommendations made by the Special Rapporteur on the situation of human rights in Myanmar. While appreciating the fact that the Union of Myanmar is a State party to the Convention on the Rights of the Child, the Committee also suggests that it envisage ratifying other major international human rights treaties.

48. The Committee recommends that in accordance with article 44, paragraph 6, of the Convention, the initial report presented by Myanmar be made widely available to the public at large and that consideration be given to publication of the report along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government and the general public, including concerned non-governmental organizations.

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